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June 27, 2019

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VIA E-MAIL AND FIRST CLASS MAIL

Ms. Beatrice Pacheco
Custodian of Records
Department of City Planning
221 North Figueroa Street, Room 1450
Los Angeles, California 90012

Beatrice.pacheco@lacity.org

Re: Public Records Act Request - 750-756 North Edinburgh Avenue, Los Angeles, CA 90046 (APN 5527-013-016)

Ms. Pacheco:

We are writing in response to your letters dated June 19, 2019 and June 10, 2019, which were sent in response to the request pursuant to the California Public Records Act (Cal. Gov. Code §§ 6250 et seq.) initially sent by my colleague, Eric N. Geier, on May 29, 2019. Our initial request, and the Department of City Planning's responses are herein incorporated by reference, including the definitions included therein. We appreciate the City making documents available to us on June 19, 2019, but believe other relevant documents are in the City's possession but were not produced. The omissions in the PRA production is another example of the lack of good faith on the part of the City in handling this case and a violation of our client's due process rights.

We respectfully request that the City provide all records responsive to our May 29 request, or else provide a record of the withheld documents that identifies the reason for their being withheld. Our May 29 request carefully and clearly described the desired records in compliance with Government Code Section 6253. For reference our May 29 request specifically identified the following requested records:

- Any and all records, including, without limitation, documents, communications, emails, text messages and phone messages, relating to or references the Updated Findings and/or the Alternative 2.
- Any and all records, including, without limitation, documents, communications, emails, text messages and phone messages, regarding the City's compliance

with the Housing Accountability Act (Government Code Section 65589.5) as related to the Project and/or the Property.

- Any and all records, including, without limitation, documents, communications, emails, text messages and phone messages related to the Updated Findings and/or Alternative 2, to, from, or copying any employee or consultant of the City of Los Angeles Department of City Planning including, but not limited to, Ken Bernstein, Lambert Giessinger, Heather Bleemers, or Adam Villani.
- Any and all records, including, without limitation, documents, communications, emails, text messages and phone messages, related to the Updated Findings and/or Alternative 2 and prepared by or reviewed by any employee or consultant of the City of Los Angeles Department of City Planning including, but not limited to, Ken Bernstein, Lambert Giessinger, Heather Bleemers, or Adam Villani.
- Any and all records, including, without limitation, documents, communications, emails, text messages and phone messages, involving, to or from any member of the City of Los Angeles Department of City Planning and Adrian Fine or Linda Dishman.

In response to our robust May 29 request, the City produced a mere two records: 1) an email sent by City Planner, Adam Villani, to the Central City Area Planning Commission (“APC”) and the APC Clerk on the day of the APC hearing for the Project, May 28, 2019, with the attached report with the revised findings; and 2) a quick email exchange between Elisa Paster of our office and City Planner, Adam Villani, the day after the APC hearing for the Project, May 29, 2019, regarding her request for a copy of the revised findings.

The stated reason for omitting virtually all records covered by our request, was that: “...some of the records are being withheld due to being exempt from production under California Government Code section 6254(k) because they are protected attorney-client communication and/or attorney work-product.” However, this reasoning certainly could not cover the withholding of all the missing records. We know *for a fact* that records withheld within the scope of our May 29 request cannot be covered by either the attorney-client or the work-product privilege.

We know for a fact that responsive records were improperly withheld because there are numerous email and text communications to and/or from City staff that include members of the Project applicant team, including Guy Penini and Matthew Jacobs, and their representative, Elisa Paster, that are not included in the records provided. Because these communications were not work product and were not limited

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to an attorney and his/her client, they could not possibly be protected by the stated reason in the City's June 19 letter.

Note that some of the City's communication related to the Project was conducted through private phone numbers and private email addresses, none of which was included in the City's response to our May 29 request. As such, we reiterate that our request covers any email or text messages in the City's possession, or which should have been kept in the normal course of business by the City, to or from a private device or email address, relating to City business, per *San Diegans for Open Government v. City of San Diego* (2016) 247 Cal.App.4th 1306, 1320-22 and *City of San Jose v. Superior Court* (2017) 2 Cal.5th 608, 625.

With this letter, we am renewing our May 29 request, pursuant to the California Public Records Act, for public records created by, retained by or in the custody of the City Department of City Planning, including but not limited to all records described above and in our initial May 29 request. Should you determine that additional documents exist but are exempt from production, please provide a record of the exempted documents, identifying the reason for their exemption.

We appreciate you taking the time to review this follow up letter and evaluate these requests. Should the Department of City Planning determine, after further evaluation, not to produce any of the exempted documents described above, please be sure to indicate what the proper procedure is for appealing the exemption determinations.

Thank you for your prompt attention to this request. Please direct questions and any other communication regarding this request to me at (310) 556-7851 or sdeherrera@glaserweil.com.

Respectfully,



STEPHANIE M. DEHERRERA
for GLASER WEIL FINK HOWARD AVCHEN & SHAPIRO LLP

SMD:sd